THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

No. 950 of 2003 (M/S) decide on 25/9/2003

Hari Lal Vs Uttar Pradesh Sahkari Gram Vikas Bank and others

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Date :- 25.09.2003 Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

COURT NO.6

HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.950 OF 2003 (M/S)

CIVIL SIDE

Hori Lal s/o Sri Bhagwan Dass
R/o Anand Nagar No. 7 (Maldhan Chaur)
Tehsil Ramnagar, Nainital …….. PETITIONER

Versus

1. Uttar Pradesh Sahkari Gram Vikas Bank
   Branch Kashipur, Udham Singh Nagar
2. Collector, District Nainital
3. Peshkar, Tehsil Ramnagar, District
   Nainital ……. RESPONDENTS

Sri M.C. Bansal, Advocate & Sri Atul Bansal, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated:25.09.2003

Hon'ble Rajesh Tandon J.

Heard Sri M.C. Bansal for the petitioner and Sri N.C. Gupta Standing counsel for the respondents.

This writ petition has been field by the petitioner challenging recovery notice by which a sum of Rs.1,13,915/- has been demanded. According to the petitioner he is a small farmer and has taken loan of Rs.38,000/- for running Diary Farm business and for purchasing befellows and second loan for Rs.45,000/- for planting of Papaya The petitioner has repaid a total sum of Rs.95,000/- to the Bank. The petitioner filed Photostat copies of the receipt of repayment of loan. It has been alleged by the petitioner that the respondents have issued

proclamation for auction of the agricultural land of the petitioner for which 26.9.2003 has been fixed.

According to the petitioner he has repaid the amount more than that he had borrowed from the Bank. He also alleged that no account has been furnished by the Bank so as to enable him to come to the conclusion that the citation made by the Tehsildar is correct. Further according to him calculation of interest is wholly incorrect and no compound interest can be charged.

In the case of *Central Bank of India vs. Ravindra and others, AIR 2001 SC 3095* the Apex Court has observed:

"Statement of accounts supplied by banks to borrowers many a times do not contain particulars or details of debit entries and when written in hand are worse than medical prescriptions putting to test the eyes and wits of the borrowers. Instances of unscrupulous, unfair and unhealthy dealings can be multiplied though they cannot be generalised."

Therefore, I am of the opinion that the Bank authorities will furnish the account to the petitioner on production of certified copy of this order.

So far as payment of amount is concerned the petitioner is not challenging the recovery proceedings. However, the said plea is also not available to him.

The petitioner has prayed that he being small farmer if the amount is realised by him through easy instalments it will serve the purpose of the Bank and will also give relief to the petitioner who is a small farmer. In my opinion the interest of Bank will be fully secured if the petitioner pays the amount in four equal quarterly instalments.

In view of the aforesaid the petitioner is directed to pay the entire outstanding loan amount in four quarterly instalments.

In view of the aforesaid the petitioner is directed to pay the entire outstanding loan amount in four quarterly instalments. The first instalment will be paid by or before 31.11.2003. The amount of interest

will be paid in the last instalment along with recovery charges, if any. In case of default of any instalmnet, the liberty given to the petitioner to pay the loan amount in instalments shall no more be available.

The writ petition is disposed of with the above observations.

(Rajesh Tandon, J.)

25.9.2003
Dhyani